

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
NORFOLK SOUTHERN RAILWAY)	
COMPANY, <i>et al.</i> ,)	Case No. 2:18-cv-530
)	
<i>Defendants.</i>)	

**MEMORANDUM IN SUPPORT OF
DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY’S
MOTION TO FILE DOCUMENTS UNDER SEAL**

Defendant Norfolk Southern Railway Company (“NS”), by counsel, states as follows in support of its Motion to File Documents Under Seal. NS seeks to file the following documents under seal: Defendants’ Joint Brief on the Issue of Injunctive Relief and Laches, including Exhibit C.

1. On October 29, 2019, the Court entered a Stipulated Protective Order, which governs the parties’ use of confidential information produced in this case. ECF No. 79.

2. Paragraph 2 of the Stipulated Protective Order defines “Protected Material” as material containing information that “must or may be protected from disclosure,” including material designated “CONFIDENTIAL” and “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” ECF No. 79, ¶ 2; *see also* 49 U.S.C. § 11904 (requiring confidentiality of certain railroad information).

3. Defendants’ Joint Brief on the Issue of Injunctive Relief and Laches, including Exhibit C, contain and/or reference information that NS, Norfolk and Portsmouth Belt Line

Railroad Company (collectively with NS, “Defendants”), and/or Plaintiff CSX Transportation, Inc. (“CSX”) have indicated is “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Stipulated Protective Order entered in this matter. ECF No. 79.

4. The Stipulated Protective Order requires NS to file these documents under seal. ECF No. 79, ¶ 16.

For the foregoing reasons, NS requests that the Court enter the proposed order attached to the Motion to Seal as **Exhibit A** authorizing and directing NS to file the Joint Brief on the Issue of Injunctive Relief and Laches, including Exhibit C, under seal, and directing the Clerk of Court to maintain such documents under seal pending further order of the Court.

NS also files herewith a Notice of Sealing Motion as required by Local Rule 5(C). NS waives oral argument on this Motion.

Dated: December 27, 2022

Respectfully submitted,

**NORFOLK SOUTHERN RAILWAY
COMPANY**

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